

SENATE BILL REPORT

HB 2478

As Reported By Senate Committee On:
Human Services & Corrections, February 22, 2008

Title: An act relating to custody of children of parents deployed in the military.

Brief Description: Addressing the custody of children of parents deployed in the military.

Sponsors: Representatives McCoy, Bailey, Wallace, Chase, Appleton, Morrell, Kenney, Moeller, Sells, Dickerson, Lantz, Conway, Hurst, Smith, Kagi and Barlow.

Brief History: Passed House: 2/01/08, 88-0.

Committee Activity: Human Services & Corrections: 2/21/08, 2/22/08 [DP].

SENATE COMMITTEE ON HUMAN SERVICES & CORRECTIONS

Majority Report: Do pass.

Signed by Senators Hargrove, Chair; Regala, Vice Chair; Stevens, Ranking Minority Member; Brandland and Carrell.

Staff: Jennifer Strus (786-7316)

Background: When determining residential placement of a child under a custody decree or parenting plan, the court bases its decision, among other things, on the best interests of the child. Once a custody decree or parenting plan is final, courts will modify the residential provisions only under certain circumstances. With a few exceptions, the petitioner for modification must show that there has been a substantial change in circumstances of the child or the nonmoving party and that modification is necessary to serve the child's best interests. The court may modify the child's residential schedule if the child has integrated into the petitioner's family with the consent of the other parent in a substantial deviation from the parenting plan.

The Washington Service Members' Civil Relief Act (Act) provides certain rights and protections in civil proceedings to service members called to active duty during the period of military service, or within 180 days after military service ends. The Act generally prohibits a court in a civil matter from entering a default judgment against an absent defendant who is a service member in military service. The Act also allows a service member to apply for a stay of civil proceedings if the service member is a defendant to a civil suit during the service member's military service, or within 180 days after termination of military service. Washington's Act, as well as the federal Service Members' Civil Relief Act, do not prohibit courts from ordering permanent child custody changes based on a parent's military deployment.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Summary of Bill: Unless agreed to by the parties, a party's absence, relocation, or failure to comply with a custody decree or parenting plan is not, by itself, a substantial change in circumstances to justify a permanent modification of a custody decree or parenting plan if the reason for the absence, relocation, or failure to comply is because of the party's activation to military service and out-of-state deployment.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: This bill is very important for the troops that have to deploy. They will have the comfort and security of knowing that custody will not change permanently while they are deployed. The language in the House bill is preferable to the similar Senate Bill 6331 because the language in the House bill is more protective of the armed service personnel's rights.

Persons Testifying: PRO: Representative McCoy, prime sponsor; Rick Bartholomew, Washington State Bar Association.